

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

True the Vote, Jane Coln, Brandie §  
Correro, Chad Higdon, Jennifer Higdon, §  
Gene Hopkins, Frederick Lee Jenkins, §  
Mary Jenkins, Tavish Kelly, Donna §  
Knezevich, Joseph Knezevich, Doris Lee, §  
Lauren Lynch, Norma Mackey, Roy §  
Nicholson, Mark Patrick, Julie Patrick, §  
Paul Patrick, David Philley, Grant §  
Sowell, Sybil Tribble, Laura §  
VanOverschelde, and Elaine Vechorik §

Plaintiffs,

v.

The Honorable Delbert Hosemann, in his §  
official capacity as Secretary of State for §  
the State of Mississippi, The Republican §  
Party of Mississippi, Copiah County, §  
Mississippi Election Commission, Hinds §  
County, Mississippi Election §  
Commission, Jefferson Davis County, §  
Mississippi Election Commission, §  
Lauderdale County, Mississippi Election §  
Commission, Leake County, Mississippi §  
Election Commission, Madison County, §  
Mississippi Election Commission, Rankin §  
County, Mississippi Election §  
Commission, Simpson County, §  
Mississippi Election Commission, and §  
Yazoo County, Mississippi Election §  
Commission

Defendants.

Cause No. 3:14-cv-00532-NFA

**PLAINTIFFS' TRUE THE VOTE, ET.AL.'S OMNIBUS RESPONSE  
TO THE COUNTY DEFENDANTS' MOTIONS FOR PARTIAL  
SUMMARY JUDGMENT**

TO THE HONORABLE DISTRICT COURT:

Plaintiffs True the Vote, et al. file this Memorandum of Law in Response to the County Defendants' Motions for Summary Judgment on the National Voter Registration Act ("NVRA") claims. *See* Docs. 79, 80, 81, 82, 85, 86, 89, 102 and 103.

Whether the records requested in this suit must be produced under the NVRA is a question of law on which no material facts are in dispute. The County Defendants' summary judgment evidence does not controvert Plaintiffs' factual allegations, but confirms Plaintiffs made requests for voter rolls, voter pollbooks, absentee ballot applications and envelopes and federal postcard applications (collectively the "voter records") prior to and following the now-contested 2014 Republican Primary Run-Off Election and were denied access to complete records.

The NVRA's Public Disclosure Provision requires that the Requested Records be made available to the public for inspection and, where available, photocopying, because they are "records concerning the implementation of programs or activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." 42 U.S.C. § 1973gg-6(i). Defendants have denied Plaintiffs access to these records in violation of the NVRA, relying on Mississippi state law. The NVRA applies to the County Defendants as arms of the State and the requested voter records. It requires County officials in control of the subject records to make the records available to the general public, including voter birth date information.

While Plaintiffs may typically need to provide notice of an NVRA violation before bringing suit, no notice was required under the facts of this case. First, Plaintiffs requested

access to records prior to a federal election. Therefore, Plaintiffs were not required to give pre-suit notice of an NVRA violation. Second, even assuming notice was required, it would have been futile under the circumstances of this case. Plaintiffs ask the Court to follow other courts in holding that the NVRA pre-suit notice should be construed to give effect to its practical purposes, which not be served here because Mississippi plainly refuses to comply with the alleged NVRA violation.

Plaintiffs submit the attached Memorandum in Support of their Motion for Summary Judgment detailing the grounds supporting summary judgment along with the following exhibits:

EXHIBIT 1	Excerpts from July 24, 2014 Evidentiary Hearing
EXHIBIT 2	Declaration of Catherine Engelbrecht
EXHIBIT 3	Declaration of Julia Hoenig and Incident Reports
EXHIBIT 4	Declaration of Mike Rowley and Incident Reports
EXHIBIT 5	Declaration of Jeanne Webb and Incident Reports
EXHIBIT 6	Declarations of John Hobson and Karen Hobson and Incident Reports
EXHIBIT 7	Declaration of Sandy Steinbacher and Incident Reports
EXHIBIT 8	July 8, 2014 Letter from Madison County Circuit Clerk
EXHIBIT 9	Declaration of Roberta Swank and Incident Reports
EXHIBIT 10	Declaration of Melinda Kinley and Incident Reports
EXHIBIT 11	Declaration of Ruth Wall and Incident Reports

EXHIBIT 12	Declaration of Susan Morse and Incident Reports
EXHIBIT 13	Declaration of Roy Nicholson
EXHIBIT 14	Declaration and Affidavit of Phil Harding
EXHIBIT 15	July 26, 2014 E-Mail Correspondence from Amanda Frusha
EXHIBIT 16	Press Release from The Honorable Delbert Hosemann
EXHIBIT 17	Attorney General Opinion No. 94-0699 dated November 2, 1994
EXHIBIT 18	E-Mail Correspondence from Kimberley Turner
EXHIBIT 19	Mississippi Encyclopedia Election Law Section 7
EXHIBIT 20	Mississippi Encyclopedia Election Law Section 9

Based on the uncontroverted evidence cited herein and under the plain meaning of the NVRA, the County Defendants are not entitled to judgment as a matter of law.

Dated: August 15, 2014

Respectfully Submitted,

L. Eades Hogue

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***Counsel for Plaintiffs***

**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2014 a copy of the forgoing instruments and its exhibits were served on The Honorable Delbert Hosemann, The Republican Party of Mississippi; The Copiah County Mississippi Election Commission; the Hinds County, Mississippi Election Commission; the Jefferson Davis County, Mississippi Election Commission; the Lauderdale County, Mississippi Election Commission, the Leake County Mississippi Election Commission; the Madison County, Mississippi Election Commission; the Rankin County, Mississippi Election Commission; and the Simpson County, Mississippi Election Commission via the Court's ECF e-file service. Plaintiffs have served the remaining Defendants, who have not yet registered to the Court's ECF system for this matter, via United States Postal Service, in accordance with Federal Rules of Civil Procedure.

/s/ L. Eades Hogue